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September 29, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

EX PARTE

Re: **PR Docket No. 93-144**

Dear Mr. Caton:

At its September 18, 1995 industry meeting, the Wireless Telecommunications Bureau ("Bureau") presented its recommendations for Federal Communications Commission ("Commission") action in the above-referenced rule making concerning wide-area licensing of 800 MHz SMR systems. The Bureau invited interested parties to comment on its recommendations through ex parte meetings and ex parte written comments by September 29, 1995.

Pursuant to Section 1.1206 of the Commission's Rules, this letter constitutes notice that Nextel Communications, Inc. is submitting the attached "Supplemental Comments" on the Bureau's recommendations.

An original and one copy of this letter, each with the attached Supplemental Comments, has been filed with the Secretary pursuant to Section 1.1206. Should

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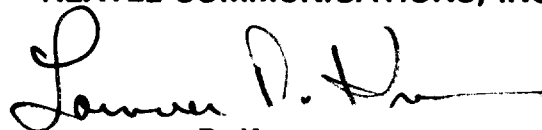
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Mr. William F. Caton
September 29, 1995
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any questions arise in connection with this notification, please do not hesitate to contact the undersigned.

Respectfully submitted,

NEXTEL COMMUNICATIONS, INC.

A handwritten signature in black ink, appearing to read "Lawrence R. Krevor", with a long horizontal flourish extending to the right.

Lawrence R. Krevor
Director - Government Affairs

cc: Regina Keeney
Daniel Pythyon
Rosalind Allen
D'wana Speight

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Part 90 of the)	PR Docket No. 93-144
Commission's Rules to Facilitate)	RM-8117, RM-8030
Future Development of SMR Systems)	
in the 800 MHz Frequency Band)	
and		
Implementation of Section 309(j))	
of the Communications Act -)	PP Docket No. 93-253
Competitive Bidding)	
800 MHz SMR)	
To: Chief, Wireless Telecommunications Bureau		

SUPPLEMENTAL COMMENTS OF NEXTEL COMMUNICATIONS, INC.

NEXTEL COMMUNICATIONS, INC.

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Date: September 29, 1995

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SUMMARY

At the request of the Wireless Telecommunications Bureau ("Bureau"), Nextel Communications, Inc. ("Nextel") files these Supplemental Comments on the Bureau's proposed recommendations ("the Recommendations") for 800 MHz wide-area Specialized Mobile Radio ("SMR") licensing. The Bureau presented these Recommendations at a September 18, 1995 industry meeting, in response to the Further Notice of Proposed Rule Making ("FNPRM") released by the Federal Communications Commission ("Commission") in this Docket. The FNPRM proposed a licensing framework intended to establish the regulatory parity mandated by Congress in the Omnibus Budget Reconciliation Act of 1993 ("Budget Act").

This proceeding is about competition. The Commission has stated that its primary regulatory objective today is to foster competition. It commenced this rule making in response to the Congressional mandate to foster competition among Commercial Mobile Radio Services ("CMRS") by establishing a level regulatory playing field for all CMRS services.

The Commission is well along in deregulating cellular providers and has adopted remarkably flexible rules for Personal Communications Services ("PCS"). This rule making offers the Commission a unique opportunity to follow through on the wide-area SMR licensing initiative it began nearly four years ago by adopting rules that will enable wide-area SMRs to effectively compete with cellular and PCS providers. By promoting competition, the Commission can free CMRS providers to offer a rich and diverse

array of new wireless communications capabilities for the American people.

The Bureau's September 18 Recommendations fulfill neither the Congressional mandate nor the Commission's primary objective. First, the Commission has already concluded that Major Trading Areas ("MTAs") are the appropriate geographic area for wide-area SMR licensing. Nonetheless, the Bureau recommends Bureau of Economic Analysis Economic Areas ("BEAs"), geographic areas that are significantly smaller than MTAs and thus fail to provide parity with the Metropolitan Statistical Areas and Rural Service Areas of cellular providers and the MTAs of Personal Communications Services.

Second, a single 200-channel block (10 MHz) license for wide-area SMRs is the appropriate avenue for approaching spectral parity with the 25 MHz of spectrum provided cellular and the up to 30 MHz of spectrum provided PCS. Third, the construction and coverage requirements must be accompanied by stricter channel usage requirements to ensure that wide-area SMR licensees efficiently utilize the spectrum on which they are licensed.

Fourth, retuning of incumbents, which was required by Congress in the Budget Act as part of its regulatory parity mandate, can be accomplished with a one-year voluntary, one-year mandatory retuning process. This provides sufficient time for resolving retuning issues between incumbents and wide-area SMR licensees, given the ease of retuning the vast majority of incumbents to channels within the same frequency band that have the same propagation and that

require little more than the retuning of existing equipment. Moreover, the two-year process (as opposed to the Bureau's recommended three-year process) will provide incumbents more certainty about their future business plans since they will know sooner whether or not they will be retuned.

Fifth, the incumbent can be retuned when "comparable facilities" are provided by the wide-area SMR licensee. Comparable facilities are those which ensure that the incumbent is made whole. The incumbent is made whole when it has been provided the same number of channels covering the same service area -- no more and no less.

Sixth, the Bureau should recommend that the Commission immediately eliminate the 800 MHz Finder's Preference program and dismiss all pending applications. This will not only eliminate a program that has been subject to much abuse by Finder's Preference applicants, but it will also ensure that all unconstructed channels automatically revert to the wide-area SMR licensee, as recommended by the Bureau at the September 18 meeting.

Finally, the Commission must act on this rule making as soon as possible if it is to salvage any of the two-year transition period which Congress provided in the Budget Act for reclassified CMRS providers after new licensing rules were to be adopted. Any further delay will potentially deprive reclassified providers of the entire transition period, thereby failing to meet Congress' objectives in the Budget Act. Given the delay that has already occurred in this proceeding, the Commission should extend the

transition period for two years from adoption of a Report and Order herein to ensure that reclassified carriers have the time Congress intended to adjust their marketing, operations and customer contracts to comply with the requirements of common carrier CMRS regulation.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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Amendment of Part 90 of the)	PR Docket No. 93-144
Commission's Rules to Facilitate)	RM-8117, RM-8030
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Competitive Bidding)	
800 MHz SMR)	

To: Chief, Wireless Telecommunications Bureau

SUPPLEMENTAL COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

In response to the Wireless Telecommunications Bureau's ("Bureau") invitation, Nextel Communications, Inc. ("Nextel") hereby files these Supplemental Comments in the above-referenced proceeding.

On September 18, 1995, the Bureau held an industry-wide meeting to present its recommendations for a wide-area licensing framework ("the Recommendations") for the 800 MHz Specialized Mobile Radio ("SMR") Service.^{1/} The Bureau's Recommendations are the result of the Federal Communications Commission's ("Commission") Further Notice Of Proposed Rule Making ("FNPRM") in

^{1/} See Public Notice, "Wireless Telecommunications Bureau Invites Interested Parties To Attend Meeting Regarding Pending Proposals For Wide-Area Licensing Of and Competitive Bidding Rules For The 800 MHz Specialized Mobile Radio Service," DA 95-1965, released September 12, 1995.

this Docket and the pleadings filed in response thereto. The proposed changes are intended to facilitate geographic area licensing of SMRs and provide regulatory parity between SMRs and other providers of Commercial Mobile Radio Services ("CMRS") as mandated by Congress in the Omnibus Budget Reconciliation Act of 1993 ("Budget Act").^{2/}

In the Budget Act, Congress mandated that all CMRS be subject to similar technical, operational and licensing rules by August 10, 1994.^{3/} This, Congress intended, would allow reclassified CMRS providers a two-year transition period during which they could prepare for CMRS regulation. Already more than a year delayed, the promulgation of these new rules to establish regulatory parity is so far behind schedule that reclassified CMRS providers will have the benefit of little, if any, of the Congressionally-guaranteed transition period from private carrier regulation to CMRS/common carrier regulation. Accordingly, the Commission should extend the transition period to give reclassified carriers the two years that Congress provided for adjusting their marketing, operations, customer contracts, etc. to comply with the obligations of CMRS regulation once such rules are in place. Any additional delay in adopting new wide-area SMR licensing rules will further retard the introduction of competition among CMRS services.

^{2/} Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI Section 6002(b), 107 Stat. 312, 392 (1993) ("Budget Act").

^{3/} *Id.*, Section 6002 (d) (3) (B).

II. BACKGROUND

Nextel is a wide-area SMR provider, currently offering its digital mobile services throughout several parts of the United States. Since initiating commercial service in Los Angeles in 1994, Nextel has expanded its service throughout California, and the Northeastern United States from Alexandria, Virginia to Hartford, Connecticut, including the metropolitan areas of New York and Philadelphia. Nextel's wide-area digital mobile services are also available in Chicago, Denver, Detroit, Kansas City, Las Vegas, Milwaukee, Oklahoma City, Portland, Seattle, St. Louis, Tulsa and Wichita.

As the largest provider of wide-area SMR services in the Nation, Nextel has actively participated in the Commission's SMR licensing proceedings. Despite the Commission-acknowledged licensing inequities for SMRs, Nextel has moved forward in building out its digital mobile network, laying the groundwork for the eventual completion of a nationwide, seamless wireless telecommunications network. Regulatory parity among SMRs, cellular and PCS, as mandated by Congress, and a wide-area licensing structure, is imperative to establishing the competitive CMRS marketplace envisioned by Congress in the Budget Act.

III. COMMENTS ON THE BUREAU'S RECOMMENDATION

A. GEOGRAPHIC AREA AND CHANNEL BLOCK

1. Regulatory Parity Requires That SMRs Be Licensed On A Major Trading Area Basis

In the FNPRM in this Docket, the Commission proposed to license wide-area SMRs on a Major Trading Area ("MTA") basis.^{4/} Nonetheless, in its Recommendations herein, the Bureau proposes wide-area SMR licensing on a Bureau of Economic Analysis Economic Area ("BEA") basis. Nextel continues to support the use of MTAs for licensing wide-area SMR systems.^{5/} An MTA license offers uniformity with other CMRS licenses, and as the Commission has already noted, MTAs are appropriate for wide-area SMRs because they are "large enough to permit systems to re-use spectrum efficiently . . . and provide licensees the flexibility and coverage required to fulfill their customers' desires for complete coverage throughout their particular business areas."^{6/}

MTAs offer economies of scale not provided by the Bureau's recommendation to license wide-area SMR systems on a BEA basis. MTAs represent natural commercial markets throughout the U.S., facilitate roaming, and reduce the need for interference

^{4/} The Commission had previously concluded in the Third Report and Order that MTAs are the most appropriate geographic area for wide-area SMR licensing.

^{5/} Nextel has consistently supported MTAs throughout this proceeding and the proceeding which resulted in the Third Report and Order. See Comments of Nextel in GN Docket No. 93-252, filed June 20, 1994, at page 14.

^{6/} See Amendment of Part 90 of the Commission's Rules To Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, 8 FCC Rcd 3950 (1993).

coordination. Moreover, MTAs offer SMRs a better footing on which to compete with CMRS providers currently operating in multiple Metropolitan Statistical Areas, Rural Service Areas and MTAs.

BEAs are more suitable for locally-based services, such as traditional dispatch services -- as the Commission recently concluded in its Third Notice Of Proposed Rule Making in the 220 MHz SMR proceeding.^{7/} Because this proceeding is intended to encourage advanced, wide-area, competitive CMRS services, Nextel supports MTA-based service areas.

2. Three Blocks of 120, 60, and 20 Channels For Wide-Area Licensing Does Not Achieve Regulatory Parity

In the FNPRM, the Commission proposed to license wide-area SMRs on the top 200 SMR channels on four 50-channel blocks. The Commission proposed to allow a single provider to aggregate all four blocks. The Bureau recommends licensing wide-area SMRs on three blocks: one with 120 channels, one with 60 channels, and one with 20 channels. Like the Commission, the Bureau also recommends an unlimited aggregation right. Nextel, in its Comments and Reply Comments on the FNPRM, supported a single 200-channel block, arguing that it would provide wide-area SMRs regulatory parity with cellular and PCS. Anything less than this 10 MHz block of spectrum, Nextel argued, would fall short of the regulatory parity mandated by Congress.

^{7/} The Commission supported its choice of BEAs for the 220 MHz local licenses because BEAs more readily accommodate the provision of dispatch services on a local basis. See Second Memorandum Opinion and Order and Third Notice Of Proposed Rule Making, PR Docket No. 89-552, FCC 95-312, released August 28, 1995.

The Commission's Rules provide cellular licensees a 25 MHz block of contiguous and exclusive-use channels in a geographic market. PCS licensees are granted 10 MHz or 30 MHz of contiguous and exclusive-use channels in a geographic market. Under the SMR channel allocation, the top 200 channels (401-600) are contiguous SMR channels, providing a single 10 MHz block of contiguous spectrum for assignment to wide-area SMR systems. While this 10 MHz falls short of the 25 to 30 MHz of spectrum provided some CMRS licensees, it is comparable to the 10 MHz PCS block. A single 10 MHz block offers wide-area SMRs the greatest potential for spectrum parity with competing cellular and PCS providers, given the existing constraints of the SMR spectrum allocation.

In the Third Report and Order in GN Docket No. 93-252 ("Third R&O"), the Order intended to create licensing, technical and operational parity among all CMRS, the Commission stated that assigning contiguous spectrum blocks to a single licensee on an exclusive basis is an "essential element" of its existing PCS and cellular licensing rules that is not included in the SMR licensing rules.^{8/} A single 200-channel block would best rectify this disparity. For example, a single 10 MHz contiguous spectrum block will ease the implementation of new, broadband technologies, allowing for the speedy delivery of new, enhanced, competitive CMRS services to the public.

^{8/} Third Report and Order, 9 FCC Rcd 7988 (1994) at para. 95.

A single block also is more appropriate than the Bureau's recommended three blocks because cellular and PCS licensees have to obtain only one license per market to have a minimum of 10 MHz of contiguous exclusive spectrum. Providing three channel blocks to be bid upon in an auction simply encourages "obstructionists" by providing them the opportunity to buy a block in a market for no other purpose than to hinder the development of a competitive wide-area SMR system (or at least bid up the price of the block to make it more expensive for the bidder intent on building out a wide-area SMR system).^{2/} As the Bureau recommends, the use of multiple blocks must be accompanied by an unlimited aggregation right. This is essential to providing the Congressionally-mandated regulatory parity for wide-area SMRs.

If the Commission implements the three recommended channel blocks, then it should allocate them in a manner that ensures maximum flexibility and utility. This can be accomplished by placing the 20-channel block on channels 401-420; the 60-channel block on channels 421-480; and the 120-channel block on channels 481-600.

By placing the 20-channel block at the lower end of the 200 channels, the Commission ensures that the smallest block remains most proximate to the smaller SMR providers operating on the

^{2/} In light of the spectrum disparity confronting wide-area SMR systems under the Bureau's recommendation, wide-area SMR licensees must have the ability to aggregate all three blocks to achieve regulatory parity to the extent it is possible given SMR's spectrum constraints.

channels below 400. Of the three channel blocks, the 20-channel is most likely to fit the needs of the small businessman.

The Commission further enhances the value of the spectrum by creating an opportunity for wide-area SMRs to put together 180 contiguous channels through the aggregation of two licenses. The ability to aggregate 180 contiguous channels will prove more valuable to a potential wide-area license bidder than the potential to aggregate 140 contiguous channels.

B. CONSTRUCTION AND COVERAGE REQUIREMENTS

1. The Bureau's Recommendation Should Be Strengthened To Deter Anti-Competitive Speculation And Spectrum Warehousing

The Bureau's Recommendation establishes construction and coverage requirements for wide-area 800 MHz SMR licensees that are similar to those imposed upon PCS licensees and 900 MHz SMR licensees: one-third coverage within three years and two-thirds coverage within five years. It is unclear from the Bureau's Recommendation whether these are intended to be population or geographic coverage requirements; as in the case of 900 MHz SMR, these should be population coverage minimums.^{10/}

Moreover, given the unique history of SMR licensing, the Commission should strengthen the requirement to assure that wide-area SMR spectrum is expeditiously and efficiently utilized and "to discourage applicants from seeking [wide-area] licenses for anti-competitive reasons, e.g., to block potential acquisition of the

^{10/} Nextel notes that the FNPRM proposed similar benchmarks, which required population coverage. See FNPRM at para. 48.

[wide-area] license by an applicant who already provides substantial coverage."^{11/} The Commission presumably recognized this possibility in the FNPRM when it sought comment on "whether a specific definition of what constitutes coverage should be adopted for this service," i.e., whether coverage by a single channel is sufficient or whether multi-channel coverage should be required.^{12/}

The Bureau stated in the September 18 meeting that its recommended coverage and construction requirements for wide-area 800 MHz SMR licensees are intended to prevent just such anti-competitive behavior. Nextel supports a coverage benchmark that encompasses a multi-channel minimum coverage requirement.^{13/} The Bureau should recommend that the Commission require the auction winner to utilize at least 50 percent of its authorized channels in meeting the coverage requirement.

^{11/} *Id.* at para. 49.

^{12/} *Id.* at para. 48.

^{13/} For example, the 40 dBu contour from a single channel system operating on the World Trade Center in New York City with 600 watts effective radiated power, and a radiation center 1423 feet above mean sea level, covers 52% of the population of the New York City MTA. These are the licensed operating facilities of WNAJ372 and several other SMR stations operating on the World Trade Center.

If an SMR operator can reach such a large percentage of an MTA population with only single channel, the problem is significantly exaggerated if the operator's service area is a BEA, as proposed by the Bureau.

C. TREATMENT OF INCUMBENT SYSTEMS

1. The Commission Should Adopt a One-year Voluntary and One-Year Mandatory Retuning Period

Congress intended the Commission to impose mandatory retuning to enable wide-area SMRs to achieve regulatory parity with their cellular and PCS competitors. In establishing the appropriate time frames for voluntary and mandatory retuning, the Bureau should consider the experiences of the PCS microwave relocation process. As experience there has shown, if the retuning period is too long, incumbents are likely to stall their negotiations for anti-competitive reasons. Similarly, in the 800 MHz SMR service, a two-year mandatory retuning period offers incumbents an inordinate -- and unnecessary -- amount of time for no other reason than to delay the implementation of new, enhanced SMR services.

A one-year voluntary, one-year mandatory retuning period would limit delay by incumbents seeking to forestall competition. At the same time, it would provide those incumbents with more certainty and a more expeditious determination of whether they will be retuned if voluntarily negotiations fail. This minimizes disruption of incumbents' business plans and benefits the incumbent SMR operator by increasing its certainty about the future. Rather than having to wait three years under the Bureau's proposal for assurance that it will or will not be retuned, an incumbent would find that assurance in just two years.

Given the ease of the 800 MHz SMR retuning process vis-a-vis the PCS microwave relocation process,^{14/} a one-year period is sufficient for mandatory retuning. As the Bureau stated in the September 18 meeting, the channels to which incumbents will be retuned have equivalent technical and operational qualities as those channels on which the incumbent previously operated. Retuning may require no more than just that -- retuning of the incumbent's existing equipment. Even the replacement of equipment, which may be required in some circumstances, does not necessitate a two-year mandatory retuning period as all of the subject equipment is commercially available and operable on all 800 MHz private radio frequencies.

2. "Comparable Facilities" Are Those Necessary To Make The Retuned Incumbent Whole -- No More, No Less

The Bureau recommends that mandatory retuning be permitted only if the wide-area licensee can provide the incumbent "comparable facilities." It recommends that this means the wide-area licensee must provide the incumbent the same service area and the same number of channels. At the September 18 meeting, the Bureau specifically requested industry comment on additional indicia of "comparable facilities."

The most basic definition of "comparable facilities" is that the retuned incumbent must be made whole. If the incumbent is offered the same number of channels covering the same service area,

^{14/} See discussion *infra*, p. 12, regarding the differences between the microwave relocation process and the 800 MHz SMR retuning process.

with co-channel interference protection consistent with the Commission's Rules,^{15/} the incumbent can serve its existing customers and therefore has been made whole with "comparable facilities."

Unlike the PCS microwave relocation process in which microwave licensees are being relocated to entirely different frequencies with different propagation, the 800 MHz SMR licensee would be retuned to channels with the same propagation characteristics. In most cases, nothing more than retuning of equipment will be required. In other cases, it might require retuning and/or relocation of the incumbent's base station. If the new base station meets all of the Commission's short-spacing rules, has the same or greater 40 dBu service contour, and encompasses the incumbent's original 40 dBu service contour, the incumbent has been made whole and provided "comparable facilities." In a few cases, offering comparable facilities could require new equipment, retuning and/or relocation.^{16/} So long as this results in the

^{15/} For administrative convenience, Nextel urges the Commission to adopt the following rule: an incumbent may be retuned to channels that meet the co-channel requirements of Section 90.621(b), regardless of the co-channel spacing the incumbent may have had on its original channels. This will ensure that incumbents receive the required co-channel protection given the operating parameters (height, power) of the affected stations to maintain their authorized 40 dBu service area, while minimizing disputes. Nextel also supports the right of the wide-area licensee and the incumbent to enter into consensual short-spacing agreements.

^{16/} In some cases, incumbents may be operating on outdated equipment that is no longer readily available. Therefore, replacing antiquated equipment with updated equipment that offers the same quality and quantity of service would be sufficient.

incumbent having the same end-product, i.e., that it can continue providing equivalent service to its customers, the changes meet the comparable facilities requirement.^{17/}

3. Comparable Facilities Can Be Achieved When Only A Part Of The Incumbent's Channels Are Retuned

The Commission should permit retuning of only a portion of the incumbent's channels as long as "comparable facilities" result from the process. For example, a ten-channel system, operating within Channels 401-450, could have five channels retuned to the 80 SMR channels and five kept where they are in the upper 200. Because the channels are of like operational and technical qualities, there is no reason a system cannot be designed to operate on those channels. The bottom line of "comparable facilities" is to ensure that the incumbent is made whole. As long as the incumbent is "made-whole" after the retuning process, this should be expressly permitted.^{18/}

^{17/} The 800 MHz SMR retuning process is significantly different from the PCS process, where relocation is to an entirely different frequency band, thereby requiring consideration of a number of factors such as throughput, overall efficiency, system reliability, speed, etc. The retuning of 800 MHz SMRs to other SMR channels requires the replication of the service area and system capacity (number of channels) with sufficient co-channel protection as required by existing rules.

^{18/} To avoid protracted Commission proceedings over "comparability," Nextel supports the use of a neutral third-party to arbitrate disputes between wide-area licensees and incumbents. This would ensure that the Commission's resources are expended in only the most contentious disputes over "comparable facilities," thereby conserving the Commission's resources.

4. The Commission Should Permit Retuning Of Business and Industrial/Land Transportation Eligibles Into Their Respective Channel Allocations

There are cases in which Business eligibles or Industrial/Land Transportation eligibles are licensed in the 200-channel SMR wide-area block. The Bureau should recommend, and the Commission should authorize, their retuning to the Business and Industrial/Land Transportation Category channels, where available. If the wide-area licensee has available those channels in the market, the Business and Industrial/Land Transportation eligibles would probably much prefer to move to their own channel allocations, and it would remove additional SMR operations from these blocks.^{19/} Therefore, the Commission should authorize mandatory retuning of Business and Industrial/Land Transportation eligibles to those Category channels, as well as the 80 SMR and 150 General Category channels.

5. The Commission Should Eliminate The Finder's Preference Program For The 800 MHz SMR Service

There is no longer a need for the Finder's Preference program -- a program which, under the current site-by-site licensing process, is being abused. Nextel supports immediate elimination of the Finder's Preference program and dismissal of all pending Finder's Preference requests. The Commission recently eliminated

^{19/} The preferable solution would be to recognize that SMR licensees dominate the Business Category channels, and therefore reallocate the entire Business block for SMR use only.

the Finder's Preference program in the 900 MHz service.^{20/} It should eliminate the program in the 800 MHz SMR service to ensure that all unconstructed channels revert to the wide-area licensee, as recommended by the Bureau at the September 18 meeting.

IV. CONCLUSION

In response to the Bureau's request for comments at the September 18 meeting, Nextel provides the following:

- (1) the Commission should license 800 MHz wide-area SMRs on an MTA basis rather than a BEA basis;
- (2) the 800 MHz wide-area SMR licensing process should provide a single, 200-channel license in each MTA;
- (3) the construction and coverage requirements must ensure that licensees cannot obtain the wide-area SMR licenses for anti-competitive reasons or to merely warehouse the 800 MHz SMR spectrum;
- (4) given the relative ease of retuning 800 MHz SMR operators from the top 200 channels to other channels in the 800 MHz SMR spectrum, a one-year voluntary, one-year mandatory retuning process is sufficient to accomplish the retuning, and offers retunees less disruption, speedier resolution, and greater certainty;
- (5) "comparable facilities" are those that ensure the incumbent is made whole, providing it the same number of

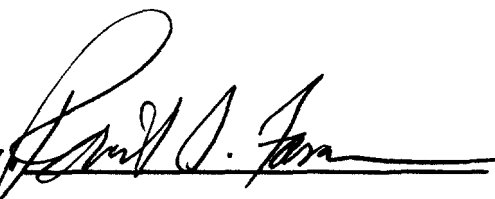
^{20/} Second Order On Reconsideration and Seventh Report and Order, PR Docket No. 89-553, FCC 95-395, released September 14, 1995, at para. 49.

channels covering the same service area -- no more and no less; and

- (6) the Commission should eliminate the Finder's Preference Program for 800 MHz SMRs and dismiss all pending finder's preference applications.

Respectfully submitted,

NEXTEL COMMUNICATIONS, INC.

By 

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Date: September 29, 1995

CERTIFICATE OF SERVICE

I, Rochelle L. Pearson, hereby certify that on this 29th day of September 1995, I caused a copy of the attached Supplemental Comments to be served by hand delivery to the following:

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